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on property in the hands of his tenant, even after learning that the tenant has given a bill of sale therefor, and can defeat the rights of the true owner of the property, if such lien is acquired before the bill of sale is recorded.

[Ed. Note.—For other cases, see 11 Va.-W. Va. Enc. Dig. 683.]

Appeal from Corporation Court of Roanoke.

Suit between one Payne and the executrix of R. R. Henry. From an adverse decree, the latter appeals. Reversed.

Randolph Henry & Thos. M. Darnall, both of Roanoke, for appellant

J. H. Stuart and C. R. Williams, both of Roanoke, for appellee.

PERKINS *v.* MINERS' BANK OF COMMERCE.

Sept. 17, 1919.

[101 S. E. 50.]

1. Judgment (§ 161*)—Setting Aside Office Judgment; Answer of Partner.—A plea by a defendant that he was not a member of the partnership sued was sufficient to set aside an office judgment; the only additional effect of an affidavit, under Code 1904, § 3280, being to put upon the plaintiff the burden of proving the partnership, a fact which may be, and often is, quite collateral to the issue.

[Ed. Note.—For other cases, see 8 Va.-W. Va. Enc. Dig. 227.]

2. Judgment (§ 161*)—Setting Aside Office Judgment; Plea by One Partner.—Where a partnership was sued and an office judgment entered, a plea by one of the alleged partners to the effect that he was not a member of the partnership, and an affidavit so stating, did not "put the matter in issue" as to other alleged partners, and could not inure to their benefit or entitle them to have the office judgment set aside.

[Ed. Note.—For other cases, see 8 Va.-W. Va. Enc. Dig. 235.]

Error to Circuit Court, Wise County.

Action by the Miners' Bank of Commerce against the Coeburn Lumber & Planing Mill Company and others. There was an order overruling a motion to set aside a default judgment, and defendant Rhoda Perkins brings error. Affirmed.

A. N. Kilgore, of Wise, for plaintiff in error.

Bond & Bruce, of Wise, for defendant in error.

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.